

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 2

DOCKET NO.: 2008-0644-PST-E TCEQ ID: RN102489226 CASE NO.: 35759

RESPONDENT NAME: C & L Diamond Liquor, Inc. dba Diamond Famous Fried Chicken

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Diamond Famous Fried Chicken, 2716 Las Vegas Trail, Fort Worth, Tarrant County</p> <p>TYPE OF OPERATION: Convenience store with retail sales of gasoline</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received January 11, 2008, alleging that the Facility was not conducting proper release detection for underground storage tanks ("USTs"). There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on September 15, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST:</p> <p>TCEQ Attorney/SEP Coordinator: None</p> <p>TCEQ Enforcement Coordinator: Mr. Thomas Greimel, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-5690; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171</p> <p>Respondent: Mr. Henry Chhean Taing, Registered Agent and President, C & L Diamond Liquor, Inc., 2716 Las Vegas Trail, Fort Worth, Texas 76116</p> <p>Ms. Kae Saephan, Company Representative, C & L Diamond Liquor, Inc., 2716 Las Vegas Trail, Fort Worth, Texas, 76116</p> <p>Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

TEXAS COMMISSION
ON ENVIRONMENTAL
QUALITY
SEP 22 AM 11:26
CHIEF CLERKS OFFICE

DOCKET NO.: 2008-0644-PST-E

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: January 11, 2008</p> <p>Date of Investigation Relating to this Case: February 7, 2008</p> <p>Date of NOV/NOE Relating to this Case: March 12, 2008 (NOE)</p> <p>Background Facts: This was a complaint investigation.</p> <p>WASTE</p> <p>1) Failure to inspect and test the cathodic protection system for operability and adequacy of protection at a frequency of at least once every three years. Specifically, the triennial test had not been conducted [30 TEX. ADMIN. CODE § 334.49(c)(4) and TEX. WATER CODE § 26.3475(a)].</p> <p>2) Failure to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>3) Failure to provide proper release detection for piping associated with the USTs [30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a)].</p> <p>4) Failure to test the line leak detectors at least once per year for performance and operational reliability [30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a)].</p> <p>5) Failure to conduct effective manual or automatic inventory control procedures for the UST system at the Facility [30 TEX. ADMIN. CODE § 334.48(c)].</p>	<p>Total Assessed: \$9,499</p> <p>Total Deferred: \$1,899 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$215 (remaining \$7,385 due in 35 monthly payments of \$211 each)</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. The TCEQ Dallas/Fort Worth Regional Office received documentation verifying that the Respondent repaired the sacrificial anodes and tested the cathodic protection system for operability and adequacy of protection on March 28, 2008;</p> <p>b. The TCEQ Dallas/Fort Worth Regional Office received documentation verifying that the Respondent implemented a release detection method for the USTs on March 3, 2008;</p> <p>c. The TCEQ Dallas/Fort Worth Regional Office received documentation verifying that the Respondent conducted the required annual piping tightness test and successfully tested the line leak detectors for performance and operational reliability on February 11, 2008; and</p> <p>d. The TCEQ Dallas/Fort Worth Regional Office received documentation verifying that the Respondent began conducting inventory control procedures on February 29, 2008.</p>

Additional ID No(s): 380



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 29, 2008

TCEQ

DATES	Assigned	7-Feb-2008	Screening	17-Apr-2008	EPA Due	
	PCW	17-Apr-2008				

RESPONDENT/FACILITY INFORMATION

Respondent	C & L Diamond Liquor, Inc. dba Diamond Famous Fried Chicken		
Reg. Ent. Ref. No.	RN102489226		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	35759	No. of Violations	3
Docket No.	2008-0644-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Thomas Greimel
Multi-Media		EC's Team	Enforcement Team 6
Admin. Penalty \$	Limit Minimum	\$0	Maximum
			\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 **\$7,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 6% Enhancement Subtotals 2, 3, & 7 **\$450**

Notes Enhancement for three previous NOV's without same or similar violations.

Culpability No 0% Enhancement Subtotal 4 **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 10% Reduction Subtotal 5 **\$750**

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		X
N/A		(mark with x)

Notes The Respondent came into compliance on March 28, 2008.

Total EB Amounts \$2,306 **0% Enhancement** Subtotal 6 **\$0**
Approx. Cost of Compliance \$4,000 **Capped at the Total EB \$ Amount*

SUM OF SUBTOTALS 1-7 Final Subtotal **\$7,200**

OTHER FACTORS AS JUSTICE MAY REQUIRE

32% Adjustment **\$2,299**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Recommended enhancement to capture the avoided cost of compliance associated with Violation Nos. 1 and 2.

Final Penalty Amount **\$9,499**

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty **\$9,499**

DEFERRAL

20% Reduction Adjustment **-\$1,899**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes Deferral offered for expedited settlement.

PAYABLE PENALTY

\$7,600

Screening Date 17-Apr-2008

Docket No. 2008-0644-PST-E

PCW

Respondent C & L Diamond Liquor, Inc. dba Diamond Famous Fried

Policy Revision 2 (September 2002)

Case ID No. 35759

PCW Revision January 29, 2008

Reg. Ent. Reference No. RN102489226

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Greimel

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 6%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for three previous NOVs without same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 6%

Screening Date 17-Apr-2008 Respondent C & L Diamond Liquor, Inc. dba Diamond Famous Fried Chicken Case ID No. 35759 Reg. Ent. Reference No. RN102489226 Media [Statute] Petroleum Storage Tank Enf. Coordinator Thomas Greimel Violation Number <input type="text" value="1"/> Rule Cite(s) <input type="text" value="30 Tex. Admin. Code § 334.49(c)(4) and Tex. Water Code § 26.3475(d)"/> Violation Description <input type="text" value="Failed to inspect and test the cathodic protection system for operability and adequacy of protection at a frequency of at least once every three years. Specifically, the triennial test had not been conducted."/>	Docket No. 2008-0644-PST-E PCW <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision January 29, 2008</i>
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	Base Penalty <input type="text" value="\$10,000"/>
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>> Environmental, Property and Human Health Matrix

	Harm				
	Release	Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	x	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="25%"/>

>> Programmatic Matrix

	Falsification				
	Major	Moderate	Minor		
	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>	

Matrix Notes	Human health or the environment could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.
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	Adjustment <input type="text" value="\$7,500"/>
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	<input type="text" value="\$2,500"/>
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Violation Events

Number of Violation Events <input type="text" value="1"/>	<input type="text" value="50"/>	Number of violation days
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<small>mark only one with an x</small>	<div style="border: 1px solid black; padding: 2px;">daily</div> <div style="border: 1px solid black; padding: 2px;">monthly</div> <div style="border: 1px solid black; padding: 2px;">quarterly</div> <div style="border: 1px solid black; padding: 2px;">semiannual</div> <div style="border: 1px solid black; padding: 2px;">annual</div> <div style="border: 1px solid black; padding: 2px;">single event</div>	<div style="border: 1px solid black; padding: 2px;"></div> <div style="border: 1px solid black; padding: 2px;"></div> <div style="border: 1px solid black; padding: 2px;">x</div> <div style="border: 1px solid black; padding: 2px;"></div> <div style="border: 1px solid black; padding: 2px;"></div> <div style="border: 1px solid black; padding: 2px;"></div>	Violation Base Penalty <input type="text" value="\$2,500"/>
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One quarterly event is recommended from the February 7, 2008 investigation date to the March 28, 2008 compliance date.

Economic Benefit (EB) for this violation	Statutory Limit Test
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Estimated EB Amount <input type="text" value="\$1,203"/>	Violation Final Penalty Total <input type="text" value="\$3,166"/>
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This violation Final Assessed Penalty (adjusted for limits)	<input type="text" value="\$3,166"/>
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Economic Benefit Worksheet

Respondent C & L Diamond Liquor, Inc. dba Diamond Famous Fried Chicken

Case ID No. 35759

Reg. Ent. Reference No. RN102489226

Media Petroleum Storage Tank

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$1,000	7-Feb-2005	28-Mar-2008	4.1	\$203	\$1,000	\$1,203
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Avoided cost for completing the triennial test. Date Required is three years prior to the investigation date. Final Date is the compliance date.

Approx. Cost of Compliance

\$1,000

TOTAL

\$1,203

Screening Date 17-Apr-2008 Docket No. 2008-0644-PST-E PCW
 Respondent C & L Diamond Liquor, Inc. dba Diamond Famous Fried Chicken
 Case ID No. 35759
 Reg. Ent. Reference No. RN102489226
 Media [Statute] Petroleum Storage Tank
 Enf. Coordinator Thomas Greimel
 Violation Number 2
 Rule Cite(s) 30 Tex. Admin. Code § 334.50(b)(1)(A), (b)(2), (b)(2)(A)(i)(III) and Tex. Water Code § 26.3475(a) and (c)(1)
 Violation Description Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Failed to provide proper release detection for the piping associated with the USTs. Also, failed to test the line leak detectors at least once per year for performance and operational reliability.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Human health or the environment could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 25 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,500

One quarterly event is recommended from the February 7, 2008 investigation date to the March 3, 2008 compliance date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,102

Violation Final Penalty Total \$3,166

This violation Final Assessed Penalty (adjusted for limits) \$3,166

Economic Benefit Worksheet

Respondent C & L Diamond Liquor, Inc. dba Diamond Famous Fried Chicken

Case ID No. 35759

Reg. Ent. Reference No. RN102489226

Media Petroleum Storage Tank

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$1,500	7-Feb-2008	3-Mar-2008	0.1	\$5	n/a	\$5

Notes for DELAYED costs

Estimated cost to provide release detection for the USTs. Date Required is the date of the investigation. Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$1,000	7-Feb-2007	11-Feb-2008	1.9	\$96	\$1,000	\$1,096
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Avoided cost for the annual piping tightness test and line leak detector test. Date Required is one year prior to the investigation date. Final Date is the compliance date.

Approx. Cost of Compliance

\$2,500

TOTAL

\$1,102

Screening Date	17-Apr-2008	Docket No.	2008-0644-PST-E	PCW
Respondent	C & L Diamond Liquor, Inc. dba Diamond Famous Fried Chicken			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	35759			<i>PCW Revision January 29, 2008</i>
Reg. Ent. Reference No.	RN102489226			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Thomas Greimel			
Violation Number	<input type="text" value="3"/>			
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 334.48(c)"/>			
Violation Description	<input type="text" value="Failed to conduct effective manual or automatic inventory control procedures for the UST system at the Facility."/>			
Base Penalty				<input type="text" value="\$10,000"/>

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="25%"/>

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>

Matrix Notes

Human health or the environment could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text" value="x"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

One quarterly event is recommended from the February 7, 2008 investigation date to the February 29, 2008 compliance date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent C & L Diamond Liquor, Inc. dba Diamond Famous Fried Chicken
Case ID No. 35759
Reg. Ent. Reference No. RN102489226
Media Petroleum Storage Tank
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
No commas or \$							
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$500	7-Feb-2008	29-Feb-2008	0.1	\$2	n/a	\$2

Notes for DELAYED costs

Estimated cost to conduct inventory control procedures. The Date Required is the date of the investigation. The Final Date is the date of compliance.

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$2

Compliance History

Customer/Respondent/Owner-Operator:	CN602927774	C & L Diamond Liquor, Inc.	Classification: AVERAGE	Rating: 3.60
Regulated Entity:	RN102489226	DIAMOND FAMOUS FRIED CHICKEN	Classification: AVERAGE	Site Rating: 3.60
ID Number(s):	PETROLEUM STORAGE TANK	REGISTRATION	380	
Location:	2716 LAS VEGAS TRL, FORT WORTH, TX, 76116	Rating Date: September 01 07	Repeat Violator:	NO
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	April 17, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	April 17, 2003 to April 17, 2008			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Thomas Greimel Phone: (512) 239-5690

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? C & L Diamond Liquor, Inc.
4. If Yes, who was/were the prior owner(s)? Crow's Discount Liquor, Inc.
White Moon Enterprises Incorporated
5. When did the change(s) in ownership occur? 05/12/2005
09/23/2005

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
 - 1 04/09/2004 (268754)
 - 2 07/14/2006 (485618)
 - 3 10/16/2006 (511687)
 - 4 10/12/2007 (573293)
 - 5 11/14/2007 (598148)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 04/12/2004 (268754)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.245(2)

Description: 30 TAC 115.245(2) Failure to verify proper operation of the Stage II equipment at least once every twelve months as required.

Date: 07/14/2006 (485618)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.244(1)

Description: Failure to conduct the daily inspections.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.244(3)

Description: Failure to perform the monthly Stage I inspection.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.248(1)

Description: Employees have not been trained on the Stage II system.

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 115, SubChapter C 115.248(2)		
Description:	No one trained as Facility Representative within 90 days of the departure of previously trained employee.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 115, SubChapter C 115.242(3)(A)		
Description:	Vapor return lines were missing the required CARB-approved devices, which prevent the loosening and/or over-tightening of the Stage I adapters.		
Date:	10/12/2007 (573293)		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 115, SubChapter C 115.245(2)		
Description:	Failure to conduct annual testing by the due date of December 31, 2006.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 115, SubChapter C 115.242(3)(C)(iii)		
Description:	The nozzle on Dispenser #2 had a boot with a tear that was greater than one inch.		

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2008 SEP 22 AM 11:26

CHIEF CLERKS OFFICE

**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
C & L DIAMOND LIQUOR, INC. DBA
DIAMOND FAMOUS FRIED
CHICKEN
RN102489226**

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§
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§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2008-0644-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding C & L Diamond Liquor, Inc. dba Diamond Famous Fried Chicken ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a convenience store with retail sales of gasoline at 2716 Las Vegas Trail in Fort Worth, Tarrant County, Texas (the "Facility").
2. The Respondent's three underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about March 17, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Nine Thousand Four Hundred Ninety-Nine Dollars (\$9,499) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Hundred Fifteen Dollars (\$215) of the administrative penalty and One Thousand Eight Hundred Ninety-Nine Dollars (\$1,899) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Seven Thousand Three Hundred Eighty-Five Dollars (\$7,385) of the administrative penalty shall be payable in 35 monthly payments of Two Hundred Eleven Dollars (\$211) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. The TCEQ Dallas/Fort Worth Regional Office received documentation verifying that the Respondent repaired the sacrificial anodes and tested the cathodic protection system for operability and adequacy of protection on March 28, 2008;
 - b. The TCEQ Dallas/Fort Worth Regional Office received documentation verifying that the Respondent implemented a release detection method for the USTs on March 3, 2008;
 - c. The TCEQ Dallas/Fort Worth Regional Office received documentation verifying that the Respondent conducted the required annual piping tightness test and successfully tested the line leak detectors for performance and operational reliability on February 11, 2008; and
 - d. The TCEQ Dallas/Fort Worth Regional Office received documentation verifying that the Respondent began conducting inventory control procedures on February 29, 2008.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to inspect and test the cathodic protection system for operability and adequacy of protection at a frequency of at least once every three years, in violation of 30 TEX. ADMIN. CODE § 334.49(c)(4) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on February 7, 2008. Specifically, the triennial test had not been conducted.
2. Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on February 7, 2008.
3. Failed to provide proper release detection for piping associated with the USTs, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on February 7, 2008.
4. Failed to test the line leak detectors at least once per year for performance and operational reliability, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on February 7, 2008.
5. Failed to conduct effective manual or automatic inventory control procedures for the UST system at the Facility, in violation of 30 TEX. ADMIN. CODE § 334.48(c), as documented during an investigation conducted on February 7, 2008.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: C & L Diamond Liquor, Inc. dba Diamond Famous Fried Chicken, Docket No. 2008-0644-PST-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director


9/17/2008
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

7-5-08
Date

Kae Saephan

Name (Printed or typed)
Authorized Representative of
C & L Diamond Liquor, Inc. dba Diamond Famous Fried Chicken

Company Rep.

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

